

STUDY
COMMISSION
REPORTS

JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE

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*REPORT TO THE
1999 GENERAL ASSEMBLY
OF NORTH CAROLINA*

2000 REGULAR SESSION

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General Assembly of North Carolina

Joint Legislative Commission for Seafood and Aquaculture

State Legislative Building
Raleigh, North Carolina

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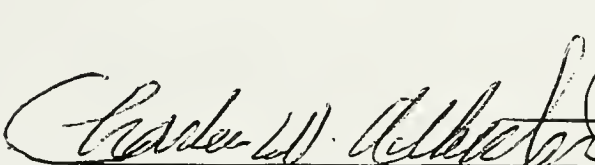
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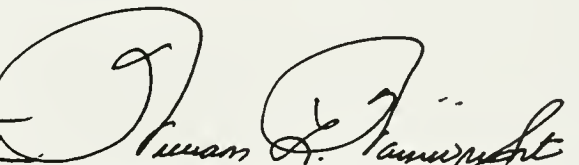
May 3, 2000

TO THE MEMBERS OF THE 2000 SESSION OF THE 1999 GENERAL ASSEMBLY

Pursuant to G.S. 120-70.62(8), the Joint Legislative Commission on Seafood and Aquaculture submits its report and recommendations to the 2000 Session of the 1999 General Assembly.

Respectfully submitted,


Senator Charles W. Albertson


Representative William L. Wainwright

Co-chairs
Joint Legislative Commission on Seafood and Aquaculture



MEMBERSHIP

JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE 1999-2000

President Pro Tempore's Appointments

Senator Charles W. Alberston, Cochair
136 Henry Dunn Pickett Road
Beulaville, NC 28518

Senator Luther H. Jordan, Jr.
PO Box 701
Wilmington, NC 28402

Senator Beverly Perdue
PO Box 991
New Bern, NC 28563

Senator Robert G. Shaw
PO Box 8101
Greensboro, NC 27419

Governor's Appointments

Mr. Benjamin M. Currin
801 Westwood Drive
Raleigh, NC 27607

Mr. Robert V. Lucas
P. O. Box 309
Selma, NC 27576

Mr. Joey Daniels
Wanchese Fish Company
P. O. Box 369
Wanchese, NC 27981

Ms. Twila M. Nelson
369 Diamond City Drive
Harkers Island, NC 28531

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Research Division
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Speaker's Appointments

Representative William L. Wainwright, Cochair
P. O. Box 941
Havelock, NC 28532

Representative Zeno L. Edwards
212 Riverside Drive
Washington, NC 27889

Representative E. David Redwine
P. O. Box 283
Shallotte, NC 28459

Representative Ronnie L. Smith
103 Gloucester Ct.
Newport, NC 28570

Commissioner of Agriculture's Appointments

Mr. Benjamin G. Day
175 Wallace Road
Beaufort, NC 28516

Mr. Robert Mayo
PO Box 10
Ayden, NC 28513

Mr. Jerry Schill
NC Fisheries Association
P. O. Box 2303
New Bern, NC 28561

COMMISSION ASSISTANT

Mary R. Watson
Room 1121/Legislative Building
Raleigh, NC 27601-2808

AUTHORIZING LEGISLATION

ARTICLE 12F.

Joint Legislative Commission on Seafood and Aquaculture.

§ 120-70.60. Joint Committee staffing.

The Joint Legislative Commission on Seafood and Aquaculture is hereby established as a permanent joint committee of the General Assembly. As used in this Article, the term "Commission" means the Joint Legislative Commission on Seafood and Aquaculture.

§ 120-70.61. Membership; cochairmen; vacancies; quorum.

The Joint Legislative Commission on Seafood and Aquaculture shall consist of 15 members: four Senators appointed by the President Pro Tempore of the Senate; four Representatives appointed by the Speaker of the House of Representatives; four members appointed by the Governor; and three members appointed by the Commissioner of Agriculture. The members shall serve at the pleasure of their appointing officer. The President Pro Tempore of the Senate shall designate one Senator to serve as cochairman and the Speaker of the House of Representatives shall designate one Representative to serve as cochairman. Vacancies occurring on the Commission shall be filled in the same manner as initial appointments. A quorum of the Commission shall consist of eight members.

§ 120-70.62. Powers and duties.

The Commission shall have the following powers and duties:

- (1) To monitor and study the current seafood industry in North Carolina including studies of the feasibility of increasing the State's production, processing, and marketing of seafood;
- (2) To study the potential for increasing the role of aquaculture in all regions of the State;
- (3) To evaluate the feasibility of creating a central permitting office for fishing and aquaculture matters;
- (4) To evaluate actions of the Marine Fisheries Division of the Department of Environment and Natural Resources, the Wildlife Resources Commission of the Department of Environment and Natural Resources and of any other board, commission, department, or agency of the State or local government as such actions relate to the seafood and aquaculture industries;
- (5) To make recommendations regarding regulatory matters relating to the seafood and aquaculture industries including, but not limited to:
 - a. Increasing the State's representation and decision-making ability by dividing the State between the Atlantic and South Atlantic regions of the National Division of Marine Fisheries; and
 - b. Evaluating the necessity to substantially increase penalties for trespass and theft of shellfish and other aquaculture products;

- (6) To review and evaluate changes in federal law and regulations, relevant court decisions, and changes in technology affecting the seafood and aquaculture industries;
- (7) To review existing and proposed State law and rules affecting the seafood and aquaculture industries and to determine whether any modification of law or rules is in the public interest;
- (8) To make reports and recommendations, including draft legislation, to the General Assembly from time to time as to any matter relating to the powers and duties set out in this section; and
- (9) To undertake such additional studies as it deems appropriate or as may from time to time be requested by the President of the Senate, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, either house of the General Assembly, the Legislative Research Commission, or the Joint Legislative Commission on Governmental Operations, and to make such reports and recommendations to the General Assembly regarding such studies as it deems appropriate.

§ 120-70.63. Additional powers.

The Commission, while in the discharge of official duties, may exercise all the powers of a joint committee of the General Assembly provided for under the provisions of G.S. 120-19, and G.S. 120-19.1 through G.S. 120-19.4. The Commission may meet at any time upon the call of either cochairman, whether or not the General Assembly is in session. The Commission may meet in the Legislative Building or the Legislative Office Building upon the approval of the Legislative Services Commission.

§ 120-70.64. Compensation and expenses of members.

Members of the Commission shall receive per diem and travel allowances in accordance with G.S. 120-3.1 for members who are legislators, and shall receive compensation and per diem and travel allowances in accordance with G.S. 138-5 for members who are not legislators.

§ 120-70.65. Staffing.

The Legislative Services Officer shall assign as staff to the Commission professional employees of the General Assembly, as approved by the Legislative Services Commission. Clerical staff shall be assigned to the Commission through the Offices of the Supervisor of Clerks of the Senate and Supervisor of Clerks of the House of Representatives. The expenses of employment of clerical staff shall be borne by the Commission.

§ 120-70.66. Funding.

From funds available to the General Assembly, the Legislative Services Commission shall allocate monies to fund the Joint Legislative Commission on Seafood and Aquaculture.

COMMITTEE PROCEEDINGS

During the interim between the 1999 Regular Session and the 2000 Regular Session of the 1999 General Assembly, the Joint Legislative Commission on Seafood and Aquaculture met seven times. Following is an agenda and a brief description of the proceedings of each meeting.

JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE ENVIRONMENTAL REVIEW COMMISSION Joint Meeting

3:00 p.m. Tuesday, November 23, 1999
Room 544 - Legislative Office Building

1. Call to order
Senator Charles Albertson, Presiding
2. Introductory remarks by Co-chairs
Senator Charles Albertson
Representative William Wainwright
Senator Fountain Odom
Representative Pryor Gibson
3. Report to the Commissions and explanation of agenda items
Jeff W. Hudson, Commission Counsel
4. Report on progress in developing and implementing Fishery Management Plans
Preston P. Pate, Director
Division of Marine Fisheries
5. Report on progress in developing and implementing Coastal Habitat Protection Plans
Preston P. Pate, Director
Division of Marine Fisheries
6. Report on the impacts of the 1999 hurricanes on marine fisheries
Preston P. Pate, Director
Division of Marine Fisheries
7. Commission discussion and announcements
8. Adjourn

**JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE
ENVIRONMENTAL REVIEW COMMISSION
Joint Meeting**

**3:00 p.m. Tuesday, November 23, 1999
Room 544 - Legislative Office Building**

The Joint Legislative Commission on Seafood and Aquaculture met jointly with the Environmental Review Commission on Tuesday, November 23, 1999. The Commissions received two statutorily required annual reports on the development and implementation of Fishery Management Plans and Coastal Habitat Protection Plans. The Commissions also heard a report on the effects of the 1999 hurricanes on marine fisheries.

Mr. Preston Pate, Director of the Division of Marine Fisheries, Department of Environment and Natural Resources, delivered the annual report on progress in developing and implementing Fisheries Management Plans required by G.S. 113-182.1(e). The report included a summary of the Fishery Management Plan development process, a timeline for the development of the Oyster and Hard Clam Fishery Management Plan, proposed amendments to the Guidelines for North Carolina Coastal Fishery Management Plans, and the 1999 Stock Status Report. Mr. Pate's presentation specifically addressed the development of Fishery Management Plans for Blue Crab, River Herring, Oysters and Hard Clams, Red Drum, and Southern Flounder.

Mr. Pate also delivered the annual report on progress in developing and implementing Coastal Habitat Protection Plans required by G.S. 143B-279.8(e). The report included a summary of and schedule for the Coastal Habitat Protection Plan development process. Mr. Pate noted that because fisheries management and habitat protection are integrally related, each Fishery Management Plan would contain a habitat component. He also noted that in order to capitalize on existing programs, each Coastal Habitat Protection Plan would be based on river basins and sub-basins identified by the Division of Water Quality in the Department of Environment and Natural Resources.

Finally, Mr. Pate reported on the effects of the 1999 hurricanes on marine fisheries. He explained that prior to Hurricane Floyd, the State was expecting an exceptionally good fall seafood harvest. When the flooding caused by Hurricane Floyd occurred, however, many expected an entire collapse of the fishing industry. Although the losses due to the hurricane do not appear to be as large as expected, the Division of Marine Fisheries will have to continue to analyze landings data throughout the fall in order to determine the full extent damage to the fishing industry.

JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE

9:30 a.m. Wednesday, November 24, 1999
Room 544 - Legislative Office Building

1. Call to order
Representative William Wainwright, Presiding
2. Introductory remarks by Co-chairs
Representative William Wainwright
Senator Charles Albertson
3. Report to the Commission
Jeff Hudson, Commission Counsel
4. Review of actions of the Marine Fisheries Commission regarding gear rules for the Recreational Commercial Gear License
Preston P. Pate, Director
Division of Marine Fisheries
5. Report on the transition to the new fishery licensing system established by the Fisheries Reform Act of 1997
Preston P. Pate, Director
Division of Marine Fisheries
6. Report on the expenditure of funds in the Shellfish Rehabilitation Program
H. Craig Hardy, Biologist Supervisor,
Shellfish Rehabilitation Program, Division of Marine Fisheries
7. Report on the availability of unemployment insurance benefits for commercial fishermen
Thomas S. Whitaker, Deputy Chairman for Programs
Employment Security Commission
8. Commission discussion and announcements
9. Adjourn

JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE

9:30 a.m. Wednesday, November 24, 1999
Room 544 - Legislative Office Building

The Joint Legislative Commission on Seafood and Aquaculture met on Wednesday, November 24, 1999. The Commission adopted its budget and received information from staff on fisheries legislation from the 1999 Regular Session of the 1999 General Assembly, as well as information on reports the Commission could expect to receive prior to the 2000 Regular Session of the 1999 General Assembly. The Commission received reports on licensing, gear regulation, activities of the Shellfish Rehabilitation Program, and information on the availability of unemployment insurance benefits or commercial fishermen.

Mr. Preston Pate, Director of the Division of Marine Fisheries, Department of Environment and Natural Resources, reported on the transition to the new fishery licensing system established by the Fisheries Reform Act of 1997. Mr. Pate provided an overview of the new licensing system and explained how it differs from the previous licensing system. He noted that the transition to the new licensing system was made easier by the 30-day grace period during which a fisherman could operate under an old license. This grace period was enacted as Section 5 of S.L. 1999-209 by the 1999 Regular Session of the 1999 General Assembly. Mr. Pate also noted that, although there were some problems with implementation of the new system in 1999, he expects that license sales will be smoother in 2000.

Mr. Pate also reviewed the actions of the Marine Fisheries Commission regarding gear rules for the Recreational Commercial Gear License. He explained that the Marine Fisheries Commission developed these rules based on two principles: maintaining a traditional fishery that allows commercial gear to be used for recreation and limiting the amount of effort resulting from this fishery. In response to concerns expressed about gill net limitations, Mr. Pate noted that the 100-yard limit on gill net was the most controversial aspect of the rules. Despite this controversy, the Marine Fisheries Commission chose the 100-yard limit in order to address concerns about excessive effort.

Mr. Craig Hardy, Biologist Supervisor, Shellfish Rehabilitation Program, Division of Marine Fisheries, delivered the annual report on the expenditure of funds in the Shellfish Rehabilitation Program required by Section 15.42 of S.L. 1997-443. During 1999, the Program planted 365,635 bushels of cultch material for oyster habitat enhancement. The Program also relayed 9,879 bushels of oysters and approximately 252,000 clams from polluted areas to open waters for purification and subsequent harvest. As of November 22, 1999, expenditures under the program for 1999 totaled six hundred fifty-two thousand ninety-nine dollars and seventy-three cents (\$652,099.73).

Mr. Thomas S. Whitaker, Deputy Chairman for Programs, Employment Security Commission, reported on the availability of unemployment insurance benefits for commercial fishermen. He provided information on who to contact and how to apply for assistance from the Disaster Unemployment Assistance Program.

JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE

**9:30 a.m. Monday, February 14, 2000
Room 544 - Legislative Office Building**

1. Call to order
Senator Charles Albertson, Presiding
2. Introductory remarks by Co-chairs
Senator Charles Albertson
Representative William Wainwright
3. Report to the Commission and explanation of agenda items
Jeff Hudson, Commission Counsel
4. Report on the implementation of the provisions in the Hurricane Floyd Recovery Act of 1999 that provide for the compensation of commercial fishermen for equipment losses and reductions in harvest
Preston Pate, Director
Division of Marine Fisheries
5. Discussion of the draft Fishery Management Plan for River Herring
Preston Pate, Director
Division of Marine Fisheries
6. Annual report on the Fishery Resource Grant Program
Ronald Hodson, Director
Sea Grant College Program

Steve Olson, Associate Director for Outreach
Sea Grant College Program
7. Commission discussion and announcements
8. Adjourn

JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE

**9:30 a.m. Monday, February 14, 2000
Room 544 - Legislative Office Building**

The Joint Legislative Commission on Seafood and Aquaculture met on Monday, February 14, 2000. The Commission received a report on hurricane relief for commercial fishermen, the Fishery Management Plan for River Herring, and a report on the Fishery Resource Grant Program.

Mr. Preston Pate, Director of the Division of Marine Fisheries, Department of Environment and Natural Resources, reported on the implementation of the provisions of the Hurricane Floyd Recovery Act of 1999 that provide for the compensation of commercial fishermen for equipment losses and reductions in harvest. He explained the process for determining eligibility for a commercial fisherman disaster relief grant. He noted that under the grant program, reductions in harvest were verifiable through historical landings data, but that gear losses were more difficult to document. Mr. Pate also noted that crewmembers were not eligible for a grant from the program because there was no way to document a crewmember's participation in a fishery.

Mr. Pate also delivered the Fishery Management Plan for River Herring as required by G.S. 113-182.1(e). He explained that the Marine Fisheries Commission had chosen a management alternative for River Herring that restricts commercial landings to 100,000 pounds. A number of questions were asked about the process for developing the Plan, particularly regarding the input of advisory committees. Due to concerns about communication between the Marine Fisheries Commission and its advisory committees, the Commission voted to send a letter to the Secretary of Environment and Natural Resources and the Chair of the Marine Fisheries Commission that:

- 1) Recommends that the Marine Fisheries Commission invite the Co-chairs of each advisory committee involved in the development of the draft River Herring Fishery Management Plan to address the Marine Fisheries Commission regarding the management of River Herring prior to action on the draft Plan.
- 2) Requests that the Secretary of Environment and Natural Resources and the Chair of the Marine Fisheries Commission report to the Commission prior to the 2000 Regular Session of the 1999 General Assembly regarding efforts to foster communication between the Marine Fisheries Commission and its advisory committees.

A copy of the letter may be found on page 19 of this report.

Mr. Ronald Hodson, Director of the Sea Grant College Program, introduced Mr. Steve Olson, Associate Director for Outreach, Sea Grant College Program, to present the annual report on the Fishery Resource Grant Program as required by G.S. 113-200(i). Mr. Olson noted that there were two solicitations for grant proposals during the preceding year. The first was conducted under a process in which the Marine Fisheries Commission awarded grants. The second solicitation was conducted under the new process established by S.L. 1999-0162 in which a Grants Committee, rather than the Marine Fisheries Commission, awards grants. Mr. Olson's presentation was accompanied by a report on specific Fishery Resource Grant Program projects.

JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE

9:30 a.m. Monday, March 13, 2000
Room 544 - Legislative Office Building

1. Call to order
Representative William Wainwright, Presiding
2. Introductory remarks by Co-chairs
Representative William Wainwright
Senator Charles Albertson
3. Report to the Commission
Jeff Hudson, Commission Counsel
4. Report on actions of the Marine Fisheries Commission
 - Update on actions of the Marine Fisheries Commission related to Recreational Commercial Gear License rules
 - Update on actions of the Marine Fisheries Commission related to the management of the River Herring Fishery
 - Report on the recommendations of the Marine Fisheries Commission related to the management of the Blue Crab Fishery
 - Report on the efforts of the Marine Fisheries Commission to develop a Violations Points System applicable to the fishing licenses of all persons who violate marine fisheries statutes or rules

Preston P. Pate, Director
Division of Marine Fisheries
5. Commission discussion and announcements
6. Adjourn

JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE

**9:30 a.m. Monday, March 13, 2000
Room 544 - Legislative Office Building**

The Joint Legislative Commission on Seafood and Aquaculture met on Monday, March 13, 2000. The Commission heard reports from Mr. Preston Pate, Director of the Division of Marine Fisheries, Department of Environment and Natural Resources, on gear, management of River Herring, management of Blue Crab, and efforts to develop a Violations Point System.

Mr. Pate gave the Commission an update on actions of the Marine Fisheries Commission related to Recreational Commercial Gear License rules. Mr. Pate explained that in response to concerns raised by the Commission on gill net limits, the Marine Fisheries Commission had its staff develop a permit for additional gill net. Marine Fisheries Commission staff developed a permit and sent it to the Marine Fisheries Commission's advisory committees for review. Each advisory committee recommended that the Marine Fisheries Commission not approve the permit plan and not increase the gill net limit.

Mr. Pate also provided the Commission an update on the actions of the Marine Fisheries Commission related to the management of the River Herring Fishery. Mr. Pate explained that the Marine Fisheries Commission did not adopt its initial preferred management option of a 100,000 pound commercial harvest limit, but had adopted a 300,000 pound limit on commercial harvest. He also explained that the Marine Fisheries Commission had followed the Commission's recommendation to invite the Co-chairs of each advisory committee involved in the development of the draft River Herring Fishery Management Plan to address the Marine Fisheries Commission regarding the management of River Herring prior to action on the draft Plan.

Mr. Pate also reported to the Commission on recommendations of the Marine Fisheries Commission related to the management of the Blue Crab Fishery. Mr. Pate delivered a letter from the Marine Fisheries Commission to the Commission that recommended that the General Assembly:

- 1) Examine the assignability of the Standard Commercial Fishing License for the Blue Crab Fishery.
- 2) Repeal the interim crab license and open the Blue Crab Fishery to all Standard Commercial Fishing License holders before October 1, 2000.

The Commission Co-chairs directed Commission staff to prepare draft legislation for these recommendations to be considered by the Commission for possible introduction to the 2000 Regular Session of the 1999 General Assembly.

Finally, Mr. Pate provided the Commission with a status report on the efforts of the Marine Fisheries Commission to develop a Violations Point System applicable to the fishing licenses of all persons who violate marine fisheries statutes or rules. Mr. Pate explained that the Marine Fisheries Commission had endorsed a conceptual points system and had sent this system to its advisory committees for review.

ITINERARY

APRIL 12, 2000

JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE

VISIT TO

**DIVISION OF MARINE FISHERIES
3441 ARENDELL STREET
MOREHEAD CITY, NORTH CAROLINA**

MORNING

- | | |
|--------------------|--|
| 10:00 – 10:15 A.M. | Coffee/Doughnuts – Lobby,
Division Marine Fisheries |
| 10:15 –10:30 A.M. | Welcome/Discussion of Fisheries Issues
Preston Pate, Director
Division of Marine Fisheries |
| 10:30-11:00 A.M. | Tour the Division of Marine Fisheries Facility |
| 11:15 A.M. | Board Boats to Morehead Waterfront |

AFTERNOON

- | | |
|----------------------|--|
| 11:45 A.M.-1:00 P.M. | Lunch – Sanitary Restaurant – Morehead Waterfront
(@ Member's Expense) |
| 1:00 - 1:15 P.M. | Board Boats |
| 1:15 - 2:30 P.M. | Tour Fish House and Trawler |
| 2:30 – 3:45 P.M. | Recreational Fishing off Shackleford Banks |
| 3:45 – 4:30 P.M. | Return to Division of Marine Fisheries Facility for Artificial
Reef
Construction Demonstration |
| 4:45 – 5:30 P.M. | Tour of Center for Marine and Science Technology |

EVENING

- | | |
|-------------|---|
| 6:00 – 8:00 | Seafood Dinner at Division of Marine Fisheries Hangar |
|-------------|---|

JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE

**10:00 a.m. Wednesday, April 12, 2000
Morehead City, North Carolina**

The Joint Legislative Commission on Seafood and Aquaculture met on Wednesday, April 12, 2000, in Morehead City, North Carolina. The Commission toured the facilities of the Division of Marine Fisheries and viewed a demonstration of the Division's computerized licensing system. The Commission also toured a fish house and trawler and engaged in recreational fishing off of Shackleford Banks. Finally, the Commission viewed a demonstration of artificial reef construction and toured the new Center for Marine and Science Technology facility.

JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE

10:00 a.m. Thursday, April 13, 2000

Room 1, Crystal Coast Civic Center

Morehead City, North Carolina

1. Call to order
Senator Charles Albertson, Presiding
2. Introductory remarks by Co-chairs
Senator Charles Albertson
Representative William Wainwright
3. Report to the Commission
Jeff Hudson, Commission Counsel
4. Approval of minutes of the following Commission meetings:
November 23, 1999
November 24, 1999
February 14, 2000
March 13, 2000
5. Report on the implementation of the provisions of the Hurricane Floyd Recovery Act of 1999 that provide for grants and loans to commercial fishermen to compensate for equipment losses and reductions in harvest
Preston P. Pate, Director
Division of Marine Fisheries, DENR
6. Report on the efforts of the Secretary of Environment and Natural Resources and the Chair of the Marine Fisheries Commission to foster communication between the Marine Fisheries Commission and its advisory committees
Preston P. Pate, Director
Division of Marine Fisheries, DENR
7. Report on the results of the shellfish mapping and human use mapping of Core Sound and how the mapping will relate to the development of the Fishery Management Plan for Shellfish (S.L. 1999-209, Section 2; SB 249, Section 2)
Fentress "Red" Munden, Acting Chief
Resource Enhancement Section, Division of Marine Fisheries, DENR

Clay Caroon, Shellfish Mapping Coordinator
Resource Enhancement Section, Division of Marine Fisheries, DENR

Dr. Michael K. Orbach, Director
Marine Laboratory, Nicholas School of the Environment, Duke University

Michael Marshall, Central District Manager
Fisheries Management Section, Division of Marine Fisheries, DENR

8. Discussion of seafood labeling, including the desirability and feasibility of requiring seafood entering the State to be labeled as to its state or country or origin (S.L. 1999-395, Part VIII; HB 163, Part VIII)

Donald H. Howell, Food and Drug Administrator
Division of Food and Drug Protection, Department of Agriculture

George H. Gilbert, Jr., Chief
Shellfish Sanitation Section, Division of Environmental Health, DENR

William Small, Seafood Marketing Supervisor
Division of Marketing, Department of Agriculture

David P. Green, Director
North Carolina State University Seafood Laboratory

9. Discussion of the issuance of health advisories for seafood
Dr. Luanne K. Williams, State Toxicologist
Division of Public Health, Department of Health and Human Services

Louis Daniels, Executive Assistant for Councils and Commissions
Division of Marine Fisheries, DENR

E. Bruce Williams, Assistant Director for Regulatory and Service Programs, Division of Food and Drug Protection, Department of Agriculture

Tim Wilson, Charterboat Captain
North Carolina Fishing Center at Wrightsville Beach

10. Consideration of legislative proposals for the management of the Blue Crab Fishery

Jeff Hudson, Commission Counsel

11. Commission discussion and announcements

12. Adjourn

JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE

10:00 a.m. Thursday, April 13, 2000
Room 1, Crystal Coast Civic Center
Morehead City, North Carolina

The Joint Legislative Commission on Seafood and Aquaculture met on Thursday, April 13, 2000. The Commission heard reports on hurricane relief for commercial fishermen, efforts to foster communication between the Marine Fisheries Commission and its advisory committees, and shellfish and human use mapping efforts. The Commission also heard reports and discussed issues related to seafood labeling and health advisories for seafood. In addition to these reports, the Commission received draft legislation for its consideration.

Mr. Preston Pate, Director, Division of Marine Fisheries, Department of Environment and Natural Resources, gave an update on the implementation of the provisions of the Hurricane Floyd Recovery Act of 1999 that provide for the compensation of commercial fishermen for equipment losses and reductions in harvest. Mr. Pate explained that the deadline for a commercial fisherman to apply for disaster relief from the Division's program was May 1. He noted that there would probably be unexpended funds in the program after all grants to eligible fishermen had been made. If this is the case, the Division and the Department may review the program's rules, amend them to broaden eligibility, and initiate a second round of applications. Members of the Commission encouraged the Division and the Department to consider broadening eligibility in order to assist more people with documented losses.

Mr. Pate also reported on the efforts of the Secretary of Environment and Natural Resources and the Chair of the Marine Fisheries Commission to foster communication between the Marine Fisheries Commission and its advisory committees. Commission members noted that they had seen evidence of these efforts and appreciated them.

Staff from the Division of Marine Fisheries and Dr. Michael Orbach, Director of the Duke University Marine Lab, delivered the report on the shellfish mapping and human use mapping of Core Sound required by Section 2 of S.L. 1999-209. They also explained how the mapping will relate to the development of the Fishery Management Plan for Shellfish. Dr. Orbach noted that a recommendation for managing shellfish leasing in Core Sound that had been developed in the human use mapping process would allow the moratorium on leasing to expire, but would limit the leasable area of Core Sound to 1-3% of its total area.

The Commission heard several presentations on seafood labeling. The Commission learned that there are a number of labeling requirements for seafood, including requirements related to nutrition, sanitation, and place of origin. Mr. Jerry Schill, a member of the Commission appointed by the Commissioner for Agriculture, suggested that the Commission make no specific recommendations regarding seafood labeling to the 2000 Regular Session of the 1999 General Assembly. He also suggested that the Commission continue to study the desirability and feasibility of requiring seafood entering the State to be labeled as to its state or country of origin as required by Part VIII of S.L. 1999-395.

The Commission heard several presentations regarding the issuance of health advisories for seafood. Most of these presentations focused on the recent health advisory on mercury levels in King Mackerel. The Commission specifically discussed the process by which a health advisory is developed and issued. Members of the Commission requested that in the future, executive branch agencies responsible for developing and issuing health advisories work more closely with parties that may be economically affected by an advisory.

Finally, the Commission received three legislative proposals for the management of the Blue Crab Fishery. These proposals were recommended by the Marine Fisheries Commission and are related to the license requirements for participation in the Blue Crab Fishery. The Commission decided to defer consideration of these proposals to its May 3, 2000, meeting.

JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE

**2:00 p.m. Wednesday, May 3, 2000
Room 544 - Legislative Office Building**

1. Call to order
Representative William Wainwright
2. Introductory remarks by Co-chairs
Representative William Wainwright
Senator Charles Albertson
3. Consideration of draft legislation for possible recommendation by the
Commission to the 2000 Session of the 1999 General Assembly
Jeff Hudson, Commission Counsel
4. Consideration of the Commission Report to the 2000 Session of the 1999 General
Assembly
Jeff Hudson, Commission Counsel
5. Commission discussion and announcements
6. Adjourn

JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE

2:00 p.m. Wednesday, May 3, 2000
Room 544 - Legislative Office Building

The Joint Legislative Commission on Seafood and Aquaculture met on Wednesday, May 3, 2000. The Commission considered three legislative proposals and discussed disaster relief for various segments of the fishing industry and the development of a Violations Points System by the Marine Fisheries Commission.

The Commission considered three legislative proposals regarding management of the Blue Crab Fishery. These proposals were based on recommendations of Marine Fisheries Commission that were presented to the Commission at its March 13, 2000, meeting. Of these, two were alternative legislative proposals related to the date by which the Interim Crab License would expire and the date by which holders of the Standard Commercial Fishing License (SCFL) could participate in the Blue Crab Fishery. Under current law, the Interim Crab License would expire and holders of the SCFL could participate in the Blue Crab Fishery on October 1, 2000. The first alternative proposal (Expand Crab Fishery – S&A00-SBZ-040.01) would leave the expiration date for the Interim Crab License at October 1, 2000, but would change the date by which holders of the SCFL could participate in the Blue Crab Fishery to July 1, 2000. The second alternative proposal (Expand Crab Fishery 2 – S&A00-SBZ-042.01) would change the date for both expiration of the Interim Crab License and SCFL holder participation in the Blue Crab Fishery to July 1, 2000. Commission Staff explained that the provision in the second alternative that would make the Interim Crab License expire three months early might constitute an unconstitutional deprivation of property without due process. The Commission discussed the two alternative proposals and Mr. Jerry Schill moved that the Commission recommend the first proposal (S&A00-SBZ-040.01) to the 2000 Regular Session of the 1999 General Assembly. The Commission approved the motion. A copy of the recommended proposal may be found on page 21 of this report.

The Commission also considered a legislative proposal that would make it unlawful to take crabs under an assigned SCFL. Mr. Schill stated that the North Carolina Fisheries Association, which is the main trade association representing commercial fishermen in North Carolina, opposed this proposal. The Commission discussed this proposal and Representative Smith moved that the Commission take no action to recommend this proposal. The Commission approved the motion.

The Commission also discussed disaster relief for various segments of the fishing industry that were affected by Hurricane Floyd. Representative Wainwright directed Commission Staff to include in the Commission's Report to the 2000 Session of the 1999 General Assembly a recommendation that the Division of Marine Fisheries review the criteria for eligibility for disaster relief and consider amending the criteria to allow a greater number of commercial fishermen who have suffered equipment losses or reductions in harvest to receive disaster relief grants. This recommendation may be found on page 23 of this report.

The Commission also discussed the development of a Violations Points System by the Marine Fisheries Commission. The system would assign points against the

fisheries licenses of persons who violate fisheries laws. If enough points are assessed against a fisheries license, the license could be suspended or revoked. Mr. Jerry Schill raised a concern about the application of a Violations Points System to commercial fishermen. He said that he believed that it would be an unfair, if not an unconstitutional system, because it would apply to the licenses of commercial fishermen, but not to the unlicensed individuals who engage in recreational fishing. Mr. Joey Daniels moved that the Commission recommend in a letter to the Marine Fisheries Commission that it not take any action to adopt a final Violations Points System until after it reported on the system to the Commission. The motion was approved. A copy of this letter may be found on page 24 of this report.

Senator Albertson moved that the Commission direct the staff to revise the draft report to reflect the action taken at this meeting and that the Commission adopt the revised draft report as the report of the Joint Legislative Commission on Seafood and Aquaculture to the 2000 Regular Session of the 1999 General Assembly. The Commission approved the motion.

RECOMMENDATIONS

The Joint Legislative Commission on Seafood and Aquaculture made recommendations on the following issues:

- River Herring Management (letter to the Secretary of Environment and Natural Resources and the Chairman of the Marine Fisheries Commission)
- Crab Fishery Participation (legislative proposal)
- Disaster Relief (recommendation)
- Violations Point System (letter to the Chairman of the Marine Fisheries Commission)

The full text of each recommendation is included in the following pages.



General Assembly of North Carolina

Joint Legislative Commission for Seafood and Aquaculture

State Legislative Building
Raleigh, North Carolina

February 15, 2000

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William E. Holman
Secretary of Environment and Natural Resources
Archdale Building
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Raleigh, North Carolina 27611

James A. Johnson, Jr., Chairman
Marine Fisheries Commission
PO Box 769
North Carolina Division of Marine Fisheries
Morehead City, North Carolina 28557

BY FACSIMILE TRANSMISSION TO: (919) 733-4299 and (252) 808-2975

Dear Secretary Holman and Chairman Johnson:

The Joint Legislative Commission on Seafood and Aquaculture has received the draft Albemarle Sound Area River Herring Fisheries Management Plan, which was submitted to the Commission by Bill Holman, Secretary of Environment and Natural Resources, on January 5, 2000. Pursuant to G.S. 113-182.1(e), the Commission reviewed the draft Plan at its February 14, 2000 meeting. After lengthy discussion, the Commission adopted a motion setting out its comments and recommendations regarding the draft Plan and the process by which draft Fisheries Management Plans are developed. That motion also directs us, as Co-chairs of the Joint Legislative Commission on Seafood and Aquaculture, to transmit those comments and recommendations to both Secretary Holman and the Marine Fisheries Commission. The Commission's comments and recommendations are as follows:



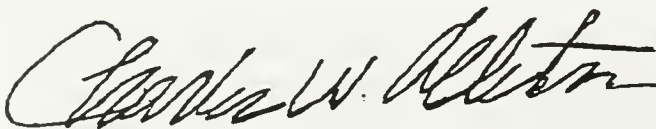
- First, the Joint Legislative Commission on Seafood and Aquaculture recommends that the Marine Fisheries Commission invite the Co-chairs of each advisory committee involved in the development of the draft Albemarle Sound Area River Herring Fisheries Management Plan to address the Marine Fisheries Commission regarding the management of River Herring prior to action on the draft Plan by the Marine Fisheries Commission.
- Second, the Joint Legislative Commission on Seafood and Aquaculture requests that the Secretary of Environment and Natural Resources and the Chair of the Marine Fisheries Commission report to the Joint Legislative Commission on Seafood and Aquaculture prior to the 2000 Session of the 1999 General Assembly regarding efforts to foster communication between the Marine Fisheries Commission and its Advisory Committees.

In making the first recommendation, the Joint Legislative Commission on Seafood and Aquaculture was fully aware that the Marine Fisheries Commission is scheduled to meet later this week, and that the Marine Fisheries Commission plans to consider the draft Albemarle Sound Area River Herring Fisheries Management Plan at that meeting. While we recognize that the time is short, we nevertheless feel that it is important that the Co-chairs of each Advisory Committee have an opportunity to be heard prior to action on the draft Plan by the Marine Fisheries Commission.

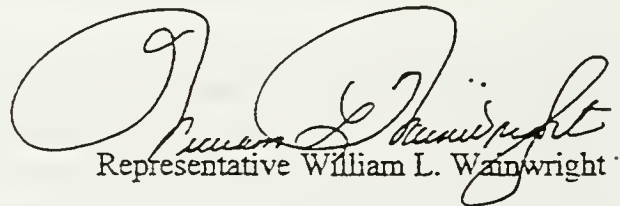
If you have any questions regarding these comments and recommendations, please feel free to contact Jeff Hudson, Commission Counsel, at 919-733-2578, or either of us.

Thank you for your consideration of these comments and recommendations. We appreciate your work on behalf of fisheries management and look forward to working with both the Department and the Marine Fisheries Commission on these important matters in the future.

Sincerely,



Senator Charles W. Albertson



Representative William L. Wainwright

Co-chairs, Joint Legislative Commission on Seafood and Aquaculture

c: Preston P. Pate, Fisheries Director

DRAFT
REVIEW ONLY

DRAFT
REVIEW ONLY

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H/S

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S&A00-SBZ-040.01

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

12:09:23 EZT / 11-APR-00

ATTENTION: Line numbers may change after adoption.

Short Title: Expand Crab Fishery.

(Public)

Sponsors:

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO CHANGE THE DATE BY WHICH THE HOLDER OF A STANDARD
3 COMMERCIAL FISHING LICENSE OR A RETIRED STANDARD COMMERCIAL
4 FISHING LICENSE WILL BE ALLOWED TO TAKE CRABS, AS RECOMMENDED
5 BY THE JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE.
6 The General Assembly of North Carolina enacts:
7 Section 1. Subsection 4.(b) of S.L. 1999-209 reads as
8 rewritten:
9 "Section 4.(b) SCFL Not Valid to Take Crabs. --
10 Notwithstanding G.S. 113-168.2, it is unlawful for any person to
11 take crabs as part of a commercial fishing operation from the
12 coastal fishing waters of North Carolina under a SCFL or any
13 other license issued by the Division other than an interim crab
14 license issued pursuant to this section. A person who holds a
15 SCFL or a RSCFL may take crabs as part of a commercial fishing
16 operation from the coastal fishing waters of North Carolina."

DRAFT
FOR REVIEW ONLY

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

1 Section 2. This act is effective July 1, 2000.
2 Subsection 4.(b) of S.L. 1999-209, as amended by Section 1 of
3 this act, expires October 1, 2000.

**A Recommendation of the Joint Legislative Commission on Seafood and
Aquaculture Regarding Hurricane Disaster Relief for Commercial Fishermen**
(Adopted May 3, 2000)

The Joint Legislative Commission on Seafood and Aquaculture recommends that the Division of Marine Fisheries review the criteria for eligibility for hurricane disaster relief for commercial fishermen and consider amending the criteria to allow a greater number of commercial fishermen who have suffered equipment losses or reductions in harvest to receive disaster relief grants.



General Assembly of North Carolina

Joint Legislative Commission for Seafood and Aquaculture

State Legislative Building
Raleigh, North Carolina

May 3, 2000

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James A. Johnson, Jr., Chairman
Marine Fisheries Commission
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North Carolina Division of Marine Fisheries
Morehead City, North Carolina 28557

Dear Chairman Johnson,

At the May 3, 2000 meeting of the Joint Legislative Commission on Seafood and Aquaculture, the Commission discussed the development of the Violations Points System by the Marine Fisheries Commission required by Section 4.4 of S.L. 1997-400. At the conclusion of this discussion, the Commission adopted a motion to direct Commission Staff to prepare a letter for our signature outlining the Commission's recommendation regarding the development of the Violations Points System.

The Joint Legislative Commission on Seafood and Aquaculture recommends that the Marine Fisheries Commission present a draft Violations Points System to the Commission prior to taking any action to adopt rules to implement the System. We anticipate that the Commission will next meet during the fall of 2000 and we look forward to receiving the draft Violations Points System at that time.

Thank you for your attention to this matter

Sincerely,

Senator Charles W. Albertson

Representative William L. Wainwright

Co-chairs, Joint Legislative Commission on Seafood and Aquaculture

